

SHB 1687 - S COMM AMD  
By Committee on Judiciary

ADOPTED 04/15/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 9.41.040 and 2003 c 53 s 26 are each amended to read  
4 as follows:

5 (1)(a) A person, whether an adult or juvenile, is guilty of the  
6 crime of unlawful possession of a firearm in the first degree, if the  
7 person owns, has in his or her possession, or has in his or her control  
8 any firearm after having previously been convicted or found not guilty  
9 by reason of insanity in this state or elsewhere of any serious offense  
10 as defined in this chapter.

11 (b) Unlawful possession of a firearm in the first degree is a class  
12 B felony punishable according to chapter 9A.20 RCW.

13 (2)(a) A person, whether an adult or juvenile, is guilty of the  
14 crime of unlawful possession of a firearm in the second degree, if the  
15 person does not qualify under subsection (1) of this section for the  
16 crime of unlawful possession of a firearm in the first degree and the  
17 person owns, has in his or her possession, or has in his or her control  
18 any firearm:

19 (i) After having previously been convicted or found not guilty by  
20 reason of insanity in this state or elsewhere of any felony not  
21 specifically listed as prohibiting firearm possession under subsection  
22 (1) of this section, or any of the following crimes when committed by  
23 one family or household member against another, committed on or after  
24 July 1, 1993: Assault in the fourth degree, coercion, stalking,  
25 reckless endangerment, criminal trespass in the first degree, or  
26 violation of the provisions of a protection order or no-contact order  
27 restraining the person or excluding the person from a residence (RCW  
28 26.50.060, 26.50.070, 26.50.130, or 10.99.040);

29 (ii) After having previously been involuntarily committed for  
30 mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77

1 RCW, or equivalent statutes of another jurisdiction, unless his or her  
2 right to possess a firearm has been restored as provided in RCW  
3 9.41.047;

4 (iii) If the person is under eighteen years of age, except as  
5 provided in RCW 9.41.042; and/or

6 (iv) If the person is free on bond or personal recognizance pending  
7 trial, appeal, or sentencing for a serious offense as defined in RCW  
8 9.41.010.

9 (b) Unlawful possession of a firearm in the second degree is a  
10 class C felony punishable according to chapter 9A.20 RCW.

11 (3) Notwithstanding RCW 9.41.047 or any other provisions of law, as  
12 used in this chapter, a person has been "convicted", whether in an  
13 adult court or adjudicated in a juvenile court, at such time as a plea  
14 of guilty has been accepted, or a verdict of guilty has been filed,  
15 notwithstanding the pendency of any future proceedings including but  
16 not limited to sentencing or disposition, post-trial or post-  
17 factfinding motions, and appeals. Conviction includes a dismissal  
18 entered after a period of probation, suspension or deferral of  
19 sentence, and also includes equivalent dispositions by courts in  
20 jurisdictions other than Washington state. A person shall not be  
21 precluded from possession of a firearm if the conviction has been the  
22 subject of a pardon, annulment, certificate of rehabilitation, or other  
23 equivalent procedure based on a finding of the rehabilitation of the  
24 person convicted or the conviction or disposition has been the subject  
25 of a pardon, annulment, or other equivalent procedure based on a  
26 finding of innocence. Where no record of the court's disposition of  
27 the charges can be found, there shall be a rebuttable presumption that  
28 the person was not convicted of the charge.

29 (4) Notwithstanding subsection (1) or (2) of this section, a person  
30 convicted or found not guilty by reason of insanity of an offense  
31 prohibiting the possession of a firearm under this section other than  
32 murder, manslaughter, robbery, rape, indecent liberties, arson,  
33 assault, kidnapping, extortion, burglary, or violations with respect to  
34 controlled substances under RCW 69.50.401 and 69.50.410, who received  
35 a probationary sentence under RCW 9.95.200, and who received a  
36 dismissal of the charge under RCW 9.95.240, shall not be precluded from  
37 possession of a firearm as a result of the conviction or finding of not  
38 guilty by reason of insanity. Notwithstanding any other provisions of

1 this section, if a person is prohibited from possession of a firearm  
2 under subsection (1) or (2) of this section and has not previously been  
3 convicted or found not guilty by reason of insanity of a sex offense  
4 prohibiting firearm ownership under subsection (1) or (2) of this  
5 section and/or any felony defined under any law as a class A felony or  
6 with a maximum sentence of at least twenty years, or both, the  
7 individual may petition a court of record to have his or her right to  
8 possess a firearm restored:

9 (a) Under RCW 9.41.047; and/or

10 (b)(i) If the conviction or finding of not guilty by reason of  
11 insanity was for a felony offense, after five or more consecutive years  
12 in the community without being convicted or found not guilty by reason  
13 of insanity or currently charged with any felony, gross misdemeanor, or  
14 misdemeanor crimes, if the individual has no prior felony convictions  
15 that prohibit the possession of a firearm counted as part of the  
16 offender score under RCW 9.94A.525; or

17 (ii) If the conviction or finding of not guilty by reason of  
18 insanity was for a nonfelony offense, after three or more consecutive  
19 years in the community without being convicted or found not guilty by  
20 reason of insanity or currently charged with any felony, gross  
21 misdemeanor, or misdemeanor crimes, if the individual has no prior  
22 felony convictions that prohibit the possession of a firearm counted as  
23 part of the offender score under RCW 9.94A.525 and the individual has  
24 completed all conditions of the sentence.

25 (5) In addition to any other penalty provided for by law, if a  
26 person under the age of eighteen years is found by a court to have  
27 possessed a firearm in a vehicle in violation of subsection (1) or (2)  
28 of this section or to have committed an offense while armed with a  
29 firearm during which offense a motor vehicle served an integral  
30 function, the court shall notify the department of licensing within  
31 twenty-four hours and the person's privilege to drive shall be revoked  
32 under RCW 46.20.265.

33 (6) Nothing in chapter 129, Laws of 1995 shall ever be construed or  
34 interpreted as preventing an offender from being charged and  
35 subsequently convicted for the separate felony crimes of theft of a  
36 firearm or possession of a stolen firearm, or both, in addition to  
37 being charged and subsequently convicted under this section for  
38 unlawful possession of a firearm in the first or second degree.

1 Notwithstanding any other law, if the offender is convicted under this  
2 section for unlawful possession of a firearm in the first or second  
3 degree and for the felony crimes of theft of a firearm or possession of  
4 a stolen firearm, or both, then the offender shall serve consecutive  
5 sentences for each of the felony crimes of conviction listed in this  
6 subsection.

7 (7) Each firearm unlawfully possessed under this section shall be  
8 a separate offense.

9 **Sec. 2.** RCW 9.41.047 and 1996 c 295 s 3 are each amended to read  
10 as follows:

11 (1) At the time a person is convicted or found not guilty by reason  
12 of insanity of an offense making the person ineligible to possess a  
13 firearm, or at the time a person is committed by court order under RCW  
14 71.05.320, 71.34.090, or chapter 10.77 RCW for mental health treatment,  
15 the convicting or committing court shall notify the person, orally and  
16 in writing, that the person must immediately surrender any concealed  
17 pistol license and that the person may not possess a firearm unless his  
18 or her right to do so is restored by a court of record. For purposes  
19 of this section a convicting court includes a court in which a person  
20 has been found not guilty by reason of insanity.

21 The convicting or committing court also shall forward a copy of the  
22 person's driver's license or identicard, or comparable information, to  
23 the department of licensing, along with the date of conviction or  
24 commitment.

25 (2) Upon receipt of the information provided for by subsection (1)  
26 of this section, the department of licensing shall determine if the  
27 convicted or committed person has a concealed pistol license. If the  
28 person does have a concealed pistol license, the department of  
29 licensing shall immediately notify the license-issuing authority which,  
30 upon receipt of such notification, shall immediately revoke the  
31 license.

32 (3)(a) A person who is prohibited from possessing a firearm, by  
33 reason of having been involuntarily committed for mental health  
34 treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or  
35 equivalent statutes of another jurisdiction may, upon discharge,  
36 petition a court of record to have his or her right to possess a

1 firearm restored. At the time of commitment, the court shall  
2 specifically state to the person that he or she is barred from  
3 possession of firearms.

4 (b) The secretary of social and health services shall develop  
5 appropriate rules to create an approval process under this subsection.  
6 The rules must provide for the restoration of the right to possess a  
7 firearm upon a showing in a court of competent jurisdiction that the  
8 person is no longer required to participate in an inpatient or  
9 outpatient treatment program, is no longer required to take medication  
10 to treat any condition related to the commitment, and does not present  
11 a substantial danger to himself or herself, others, or the public.  
12 Unlawful possession of a firearm under this subsection shall be  
13 punished as a class C felony under chapter 9A.20 RCW.

14 (c) A person petitioning the court under this subsection (3) shall  
15 bear the burden of proving by a preponderance of the evidence that the  
16 circumstances resulting in the commitment no longer exist and are not  
17 reasonably likely to recur. If a preponderance of the evidence in the  
18 record supports a finding that the person petitioning the court has  
19 engaged in violence and that it is more likely than not that the person  
20 will engage in violence after his or her right to possess a firearm is  
21 restored, the person shall bear the burden of proving by clear, cogent,  
22 and convincing evidence that he or she does not present a substantial  
23 danger to the safety of others.

24 (4) No person who has been found not guilty by reason of insanity  
25 may petition a court for restoration of the right to possess a firearm  
26 unless the person meets the requirements for the restoration of the  
27 right to possess a firearm under RCW 9.41.040(4).

28 **Sec. 3.** RCW 9.41.060 and 1998 c 253 s 2 are each amended to read  
29 as follows:

- 30 The provisions of RCW 9.41.050 shall not apply to:
- 31 (1) Marshals, sheriffs, prison or jail wardens or their deputies,  
32 or other law enforcement officers of this state or another state;
  - 33 (2) Members of the armed forces of the United States or of the  
34 national guard or organized reserves, when on duty;
  - 35 (3) Officers or employees of the United States duly authorized to  
36 carry a concealed pistol;

1 (4) Any person engaged in the business of manufacturing, repairing,  
2 or dealing in firearms, or the agent or representative of the person,  
3 if possessing, using, or carrying a pistol in the usual or ordinary  
4 course of the business;

5 (5) Regularly enrolled members of any organization duly authorized  
6 to purchase or receive pistols from the United States or from this  
7 state;

8 (6) Regularly enrolled members of clubs organized for the purpose  
9 of target shooting, when those members are at or are going to or from  
10 their places of target practice;

11 (7) Regularly enrolled members of clubs organized for the purpose  
12 of modern and antique firearm collecting, when those members are at or  
13 are going to or from their collector's gun shows and exhibits;

14 (8) Any person engaging in a lawful outdoor recreational activity  
15 such as hunting, fishing, camping, hiking, or horseback riding, only  
16 if, considering all of the attendant circumstances, including but not  
17 limited to whether the person has a valid hunting or fishing license,  
18 it is reasonable to conclude that the person is participating in lawful  
19 outdoor activities or is traveling to or from a legitimate outdoor  
20 recreation area;

21 (9) Any person while carrying a pistol unloaded and in a closed  
22 opaque case or secure wrapper; or

23 (10) Law enforcement officers retired for service or physical  
24 disabilities, except for those law enforcement officers retired because  
25 of mental or stress-related disabilities. This subsection applies only  
26 to a retired officer who has: (a) Obtained documentation from a law  
27 enforcement agency within Washington state from which he or she retired  
28 that is signed by the agency's chief law enforcement officer and that  
29 states that the retired officer was retired for service or physical  
30 disability; and (b) not been convicted or found not guilty by reason of  
31 insanity of a crime making him or her ineligible for a concealed pistol  
32 license.

33 **Sec. 4.** RCW 9.41.075 and 1994 sp.s. c 7 s 408 are each amended to  
34 read as follows:

35 (1) The license shall be revoked by the license-issuing authority  
36 immediately upon:

1 (a) Discovery by the issuing authority that the person was  
2 ineligible under RCW 9.41.070 for a concealed pistol license when  
3 applying for the license or license renewal;

4 (b) Conviction of the licensee, or the licensee being found not  
5 guilty by reason of insanity, of an offense, or commitment of the  
6 licensee for mental health treatment, that makes a person ineligible  
7 under RCW 9.41.040 to possess a firearm;

8 (c) Conviction of the licensee for a third violation of this  
9 chapter within five calendar years; or

10 (d) An order that the licensee forfeit a firearm under RCW  
11 9.41.098(1)(d).

12 (2)(a) Unless the person may lawfully possess a pistol without a  
13 concealed pistol license, an ineligible person to whom a concealed  
14 pistol license was issued shall, within fourteen days of license  
15 revocation, lawfully transfer ownership of any pistol acquired while  
16 the person was in possession of the license.

17 (b) Upon discovering a person issued a concealed pistol license was  
18 ineligible for the license, the issuing authority shall contact the  
19 department of licensing to determine whether the person purchased a  
20 pistol while in possession of the license. If the person did purchase  
21 a pistol while in possession of the concealed pistol license, if the  
22 person may not lawfully possess a pistol without a concealed pistol  
23 license, the issuing authority shall require the person to present  
24 satisfactory evidence of having lawfully transferred ownership of the  
25 pistol. The issuing authority shall require the person to produce the  
26 evidence within fifteen days of the revocation of the license.

27 (3) When a licensee is ordered to forfeit a firearm under RCW  
28 9.41.098(1)(d), the issuing authority shall:

29 (a) On the first forfeiture, revoke the license for one year;

30 (b) On the second forfeiture, revoke the license for two years; or

31 (c) On the third or subsequent forfeiture, revoke the license for  
32 five years.

33 Any person whose license is revoked as a result of a forfeiture of  
34 a firearm under RCW 9.41.098(1)(d) may not reapply for a new license  
35 until the end of the revocation period.

36 (4) The issuing authority shall notify, in writing, the department  
37 of licensing of the revocation of a license. The department of  
38 licensing shall record the revocation.

1       **Sec. 5.** RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and 2004  
2 c 33 s 2 are each reenacted and amended to read as follows:

3       Except as provided in this section, the fact of admission and all  
4 information and records compiled, obtained, or maintained in the course  
5 of providing services to either voluntary or involuntary recipients of  
6 services at public or private agencies shall be confidential.

7       Information and records may be disclosed only:

8       (1) In communications between qualified professional persons to  
9 meet the requirements of this chapter, in the provision of services or  
10 appropriate referrals, or in the course of guardianship proceedings.  
11 The consent of the patient, or his or her guardian, shall be obtained  
12 before information or records may be disclosed by a professional person  
13 employed by a facility unless provided to a professional person:

14       (a) Employed by the facility;

15       (b) Who has medical responsibility for the patient's care;

16       (c) Who is a county designated mental health professional;

17       (d) Who is providing services under chapter 71.24 RCW;

18       (e) Who is employed by a state or local correctional facility where  
19 the person is confined or supervised; or

20       (f) Who is providing evaluation, treatment, or follow-up services  
21 under chapter 10.77 RCW.

22       (2) When the communications regard the special needs of a patient  
23 and the necessary circumstances giving rise to such needs and the  
24 disclosure is made by a facility providing outpatient services to the  
25 operator of a care facility in which the patient resides.

26       (3) When the person receiving services, or his or her guardian,  
27 designates persons to whom information or records may be released, or  
28 if the person is a minor, when his or her parents make such  
29 designation.

30       (4) To the extent necessary for a recipient to make a claim, or for  
31 a claim to be made on behalf of a recipient for aid, insurance, or  
32 medical assistance to which he or she may be entitled.

33       (5) For either program evaluation or research, or both: PROVIDED,  
34 That the secretary adopts rules for the conduct of the evaluation or  
35 research, or both. Such rules shall include, but need not be limited  
36 to, the requirement that all evaluators and researchers must sign an  
37 oath of confidentiality substantially as follows:

1 "As a condition of conducting evaluation or research concerning  
2 persons who have received services from (fill in the facility, agency,  
3 or person) I, . . . . ., agree not to divulge, publish, or  
4 otherwise make known to unauthorized persons or the public any  
5 information obtained in the course of such evaluation or research  
6 regarding persons who have received services such that the person who  
7 received such services is identifiable.

8 I recognize that unauthorized release of confidential information  
9 may subject me to civil liability under the provisions of state law.

10  
11 /s/ .....

12 (6)(a) To the courts as necessary to the administration of this  
13 chapter or to a court ordering an evaluation or treatment under chapter  
14 10.77 RCW solely for the purpose of preventing the entry of any  
15 evaluation or treatment order that is inconsistent with any order  
16 entered under this chapter.

17 (b) To a court or its designee in which a motion under chapter  
18 10.77 RCW has been made for involuntary medication of a defendant for  
19 the purpose of competency restoration.

20 (c) Disclosure under this subsection is mandatory for the purpose  
21 of the health insurance portability and accountability act.

22 (7) To law enforcement officers, public health officers, or  
23 personnel of the department of corrections or the indeterminate  
24 sentence review board for persons who are the subject of the records  
25 and who are committed to the custody or supervision of the department  
26 of corrections or indeterminate sentence review board which information  
27 or records are necessary to carry out the responsibilities of their  
28 office. Except for dissemination of information released pursuant to  
29 RCW 71.05.425 and 4.24.550, regarding persons committed under this  
30 chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of  
31 a sex offense as defined in RCW 9.94A.030, the extent of information  
32 that may be released is limited as follows:

33 (a) Only the fact, place, and date of involuntary commitment, the  
34 fact and date of discharge or release, and the last known address shall  
35 be disclosed upon request;

1 (b) The law enforcement and public health officers or personnel of  
2 the department of corrections or indeterminate sentence review board  
3 shall be obligated to keep such information confidential in accordance  
4 with this chapter;

5 (c) Additional information shall be disclosed only after giving  
6 notice to said person and his or her counsel and upon a showing of  
7 clear, cogent, and convincing evidence that such information is  
8 necessary and that appropriate safeguards for strict confidentiality  
9 are and will be maintained. However, in the event the said person has  
10 escaped from custody, said notice prior to disclosure is not necessary  
11 and that the facility from which the person escaped shall include an  
12 evaluation as to whether the person is of danger to persons or property  
13 and has a propensity toward violence;

14 (d) Information and records shall be disclosed to the department of  
15 corrections pursuant to and in compliance with the provisions of RCW  
16 71.05.445 for the purposes of completing presentence investigations or  
17 risk assessment reports, supervision of an incarcerated offender or  
18 offender under supervision in the community, planning for and provision  
19 of supervision of an offender, or assessment of an offender's risk to  
20 the community; and

21 (e) Disclosure under this subsection is mandatory for the purposes  
22 of the health insurance portability and accountability act.

23 (8) To the attorney of the detained person.

24 (9) To the prosecuting attorney as necessary to carry out the  
25 responsibilities of the office under RCW 71.05.330(2) and  
26 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access  
27 to records regarding the committed person's treatment and prognosis,  
28 medication, behavior problems, and other records relevant to the issue  
29 of whether treatment less restrictive than inpatient treatment is in  
30 the best interest of the committed person or others. Information shall  
31 be disclosed only after giving notice to the committed person and the  
32 person's counsel.

33 (10) To appropriate law enforcement agencies and to a person, when  
34 the identity of the person is known to the public or private agency,  
35 whose health and safety has been threatened, or who is known to have  
36 been repeatedly harassed, by the patient. The person may designate a  
37 representative to receive the disclosure. The disclosure shall be made  
38 by the professional person in charge of the public or private agency or

1 his or her designee and shall include the dates of commitment,  
2 admission, discharge, or release, authorized or unauthorized absence  
3 from the agency's facility, and only such other information that is  
4 pertinent to the threat or harassment. The decision to disclose or not  
5 shall not result in civil liability for the agency or its employees so  
6 long as the decision was reached in good faith and without gross  
7 negligence.

8 (11) To appropriate corrections and law enforcement agencies all  
9 necessary and relevant information in the event of a crisis or emergent  
10 situation that poses a significant and imminent risk to the public.  
11 The decision to disclose or not shall not result in civil liability for  
12 the mental health service provider or its employees so long as the  
13 decision was reached in good faith and without gross negligence.

14 (12) To the persons designated in RCW 71.05.425 for the purposes  
15 described in that section.

16 (13) Civil liability and immunity for the release of information  
17 about a particular person who is committed to the department under RCW  
18 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as  
19 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

20 (14) To a patient's next of kin, guardian, or conservator, if any,  
21 in the event of death, as provided in RCW 71.05.400.

22 (15) To the department of health for the purposes of determining  
23 compliance with state or federal licensure, certification, or  
24 registration rules or laws. However, the information and records  
25 obtained under this subsection are exempt from public inspection and  
26 copying pursuant to chapter 42.17 RCW.

27 (16) To mark headstones or otherwise memorialize patients interred  
28 at state hospital cemeteries. The department of social and health  
29 services shall make available the name, date of birth, and date of  
30 death of patients buried in state hospital cemeteries fifty years after  
31 the death of a patient.

32 (17) To law enforcement officers and to prosecuting attorneys as  
33 are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of  
34 information that may be released is limited as follows:

35 (a) Only the fact, place, and date of involuntary commitment, an  
36 official copy of any order or orders of commitment, and an official  
37 copy of any written or oral notice of ineligibility to possess a

1 firearm that was provided to the person pursuant to RCW 9.41.047(1),  
2 shall be disclosed upon request;

3 (b) The law enforcement and prosecuting attorneys may only release  
4 the information obtained to the person's attorney as required by court  
5 rule and to a jury or judge, if a jury is waived, that presides over  
6 any trial at which the person is charged with violating RCW  
7 9.41.040(2)(a)(ii);

8 (c) Disclosure under this subsection is mandatory for the purposes  
9 of the health insurance portability and accountability act.

10 The fact of admission, as well as all records, files, evidence,  
11 findings, or orders made, prepared, collected, or maintained pursuant  
12 to this chapter shall not be admissible as evidence in any legal  
13 proceeding outside this chapter without the written consent of the  
14 person who was the subject of the proceeding except in a subsequent  
15 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)  
16 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter  
17 10.77 RCW due to incompetency to stand trial or in a civil commitment  
18 proceeding pursuant to chapter 71.09 RCW. The records and files  
19 maintained in any court proceeding pursuant to this chapter shall be  
20 confidential and available subsequent to such proceedings only to the  
21 person who was the subject of the proceeding or his or her attorney.  
22 In addition, the court may order the subsequent release or use of such  
23 records or files only upon good cause shown if the court finds that  
24 appropriate safeguards for strict confidentiality are and will be  
25 maintained.

26 **Sec. 6.** RCW 71.34.200 and 2000 c 75 s 7 are each amended to read  
27 as follows:

28 The fact of admission and all information obtained through  
29 treatment under this chapter is confidential. Confidential information  
30 may be disclosed only:

31 (1) In communications between mental health professionals to meet  
32 the requirements of this chapter, in the provision of services to the  
33 minor, or in making appropriate referrals;

34 (2) In the course of guardianship or dependency proceedings;

35 (3) To persons with medical responsibility for the minor's care;

36 (4) To the minor, the minor's parent, and the minor's attorney,  
37 subject to RCW 13.50.100;

1 (5) When the minor or the minor's parent designates in writing the  
2 persons to whom information or records may be released;

3 (6) To the extent necessary to make a claim for financial aid,  
4 insurance, or medical assistance to which the minor may be entitled or  
5 for the collection of fees or costs due to providers for services  
6 rendered under this chapter;

7 (7) To the courts as necessary to the administration of this  
8 chapter;

9 (8) To law enforcement officers or public health officers as  
10 necessary to carry out the responsibilities of their office. However,  
11 only the fact and date of admission, and the date of discharge, the  
12 name and address of the treatment provider, if any, and the last known  
13 address shall be disclosed upon request;

14 (9) To law enforcement officers, public health officers, relatives,  
15 and other governmental law enforcement agencies, if a minor has escaped  
16 from custody, disappeared from an evaluation and treatment facility,  
17 violated conditions of a less restrictive treatment order, or failed to  
18 return from an authorized leave, and then only such information as may  
19 be necessary to provide for public safety or to assist in the  
20 apprehension of the minor. The officers are obligated to keep the  
21 information confidential in accordance with this chapter;

22 (10) To the secretary for assistance in data collection and program  
23 evaluation or research, provided that the secretary adopts rules for  
24 the conduct of such evaluation and research. The rules shall include,  
25 but need not be limited to, the requirement that all evaluators and  
26 researchers sign an oath of confidentiality substantially as follows:

27 "As a condition of conducting evaluation or research concerning  
28 persons who have received services from (fill in the facility, agency,  
29 or person) I, . . . . ., agree not to divulge, publish, or otherwise  
30 make known to unauthorized persons or the public any information  
31 obtained in the course of such evaluation or research regarding minors  
32 who have received services in a manner such that the minor is  
33 identifiable.

34 I recognize that unauthorized release of confidential information  
35 may subject me to civil liability under state law.

(11) To appropriate law enforcement agencies, upon request, all necessary and relevant information in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. The decision to disclose or not shall not result in civil liability for the mental health service provider or its employees so long as the decision was reached in good faith and without gross negligence;

(12) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence;

(13) To a minor's next of kin, attorney, guardian, or conservator, if any, the information that the minor is presently in the facility or that the minor is seriously physically ill and a statement evaluating the mental and physical condition of the minor as well as a statement of the probable duration of the minor's confinement;

(14) Upon the death of a minor, to the minor's next of kin;

(15) To a facility in which the minor resides or will reside;

(16) To law enforcement officers and to prosecuting attorneys as are necessary to enforce RCW 9.41.040(2)(a)(ii). The extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary commitment, an official copy of any order or orders of commitment, and an official copy of any written or oral notice of ineligibility to possess a firearm that was provided to the person pursuant to RCW 9.41.047(1), shall be disclosed upon request;

(b) The law enforcement and prosecuting attorneys may only release the information obtained to the person's attorney as required by court

1 rule and to a jury or judge, if a jury is waived, that presides over  
2 any trial at which the person is charged with violating RCW  
3 9.41.040(2)(a)(ii);

4 (c) Disclosure under this subsection is mandatory for the purposes  
5 of the health insurance portability and accountability act.

6 This section shall not be construed to prohibit the compilation and  
7 publication of statistical data for use by government or researchers  
8 under standards, including standards to assure maintenance of  
9 confidentiality, set forth by the secretary. The fact of admission and  
10 all information obtained pursuant to this chapter are not admissible as  
11 evidence in any legal proceeding outside this chapter, except  
12 guardianship or dependency, without the written consent of the minor or  
13 the minor's parent.

14 NEW SECTION. Sec. 7. If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected."

**SHB 1687** - S COMM AMD  
By Committee on Judiciary

**ADOPTED 04/15/2005**

18 On page 1, line 1 of the title, after "firearms;" strike the  
19 remainder of the title and insert "amending RCW 9.41.040, 9.41.047,  
20 9.41.060, 9.41.075, and 71.34.200; and reenacting and amending RCW  
21 71.05.390."

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